

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

JOHN DERAFFELE,

Plaintiff.

v.

CITY OF WILLIAMSPORT, *et al.*,

Defendants.

No. 4:14-CV-01849

(Judge Brann)

**ORDER**

**APRIL 17, 2018**

Before the Court for disposition is a Report and Recommendation filed by Magistrate Judge William I. Arbuckle, III on March 16, 2018.<sup>1</sup> In this Report, Magistrate Judge Arbuckle recommended that Plaintiff John DeRaffele's Motion to Seek Court Cost Fees, Secretarial Costs, and Printing Costs in the Above Action be denied because (1) the Federal Rule of Civil Procedure 68 Offer of Judgment included all costs recoverable by Plaintiff, (2) as a *pro se* litigant, he is generally barred from recovering such fees, and (3) he has offered no evidence demonstrating bad faith by Defendants.<sup>2</sup> Plaintiff has filed Objections to the

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<sup>1</sup> ECF No. 100.

<sup>2</sup> *Id.*

conclusions of the Report and Recommendation, and the matter has since been fully briefed.<sup>3</sup>

Upon designation, a magistrate judge may “conduct hearings, including evidentiary hearings, and ... submit to a judge of the court proposed findings of fact and recommendations.”<sup>4</sup> Once filed, this Report and Recommendation is disseminated to the parties in the case who then have the opportunity to file written objections.<sup>5</sup> When objections are timely filed, the District Court must conduct a *de novo* review of those portions of the report to which objections are made.<sup>6</sup> Although the standard of review for objections is *de novo*, the extent of review lies within the discretion of the District Court, and the court may otherwise rely on the recommendations of the magistrate judge to the extent it deems proper.<sup>7</sup> For portions of the Report and Recommendation to which no objection is made, a court should, as a matter of good practice, “satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.”<sup>8</sup> Regardless of whether

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<sup>3</sup> See M.D.Pa. LR 72.3; M.D.Pa. LR 72.2 (setting forth the briefing schedule for Objections to Reports and Recommendation).

<sup>4</sup> 28 U.S.C. § 636(b)(1)(B).

<sup>5</sup> 28 U.S.C. § 636(b)(1).

<sup>6</sup> 28 U.S.C. § 636(b)(1); *Brown v. Astrue*, 649 F.3d 193, 195 (3d Cir. 2011).

<sup>7</sup> *Rieder v. Apfel*, 115 F.Supp.2d 496, 499 (M.D.Pa. 2000) (citing *United States v. Raddatz*, 447 U.S. 667, 676 (1980)).

<sup>8</sup> Fed.R.Civ.P. 72(b), advisory committee notes; see also *Univac Dental Co. v. Dentsply Intern., Inc.*, 702 F.Supp.2d 465, 469 (M.D.Pa. 2010) (citing *Henderson v. Carlson*, 812 F.2d 874, 878 (3d Cir. 1987)) (explaining that judges should give some review to every report and recommendation).

timely objections are made by a party, the District Court may accept, not accept, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.<sup>9</sup>

In the instant matter, I have duly considered Plaintiff's Objections and provided *de novo* review to the portions of the Report and Recommendation to which they correspond. I find them to be without merit. Magistrate Judge Arbuckle's Report and Recommendation is well-reasoned, and correctly notes that *pro se* litigants are generally not entitled to recover attorney fees.<sup>10</sup> I am in further agreement that, in the absence of evidence of bad faith by the Defendants, the plain language of the Offer of Judgment, which includes all costs recoverable to Plaintiff, controls.<sup>11</sup>

**AND NOW**, therefore, **IT IS HEREBY ORDERED** that:

1. Magistrate Judge William I. Arbuckle, III's Report and Recommendation (ECF No. 100) is **ADOPTED** in its entirety; and

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<sup>9</sup> 28 U.S.C. § 636(b)(1); Local Rule 72.31.

<sup>10</sup> See *Kay v. Ehrler*, 499 U.S. 432, 435–37 (1991); *Pager v. Metropolitan Edison*, No. 17-CV-934, 2018 WL 491014, at \*3 (M.D.Pa. Jan. 19, 2018).

<sup>11</sup> See Report and Recommendation (ECF No. 100) at 8. See also Offer of Judgment (ECF No. 83) ¶ 2 (“Judgment in the amount of ten thousand (\$10,000.00) includes all costs recoverable by Plaintiff pursuant to Fed.R.Civ.P. 68.”).

2. *Pro se* Plaintiff John DeRaffele's Motion to Seek Court Cost Fees, Secretarial Costs, and Printing Costs in the Above Action (ECF No. 95) is **DENIED**.

BY THE COURT:

*s/ Matthew W. Brann*

Matthew W. Brann

United States District Judge